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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1895.

No. 300.

CERTAIN REAL ESTATE KNOWN AS THE CHURCH FARM, AND FRANCIS ARMSTRONG AND JESSE W. FOX, JUNIOR, TRUSTEES, APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE SUPREME COURT OF THE TERRITORY OF UTAH.

FILED DECEMBER 4, 1893.

(15,459.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., AUGUST 5, 1895.

a In the Third Judicial District Court of Utah Territory.

THE UNITED STATES OF AMERICA, Plaintiff and Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SALT LAKE COUNTY, Utah Territory, * * * known as the Church Farm, and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants and Appellants. } No. 327.

Transcript.

Indorsed: Filed and transmitted December 3rd, 1892. Henry G. McMillan, clerk, by Geo. D. Loomis, deputy. No. 327. Filed in the supreme court Dec. 3, 1892, at Salt Lake City, Utah. Jos. P. Bache, clerk.

1 In the Third Judicial District Court of the Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SALT LAKE COUNTY, UTAH Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the N. E. corner of the N. E. ¼ of section 24, township 1 south, of range 1 west, of Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28 minutes west 88.8 —, more or less; thence south 6 minutes west 70.5 rods, more or less; thence south 89 degrees and 36 minutes west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence, along the north side of said county road, south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up sa*di* east bank of the River Jordan and following the meanderings thereof to the center of a county road running east and west; thence along the center of said county road 366 rods east, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants.

On this 12th day of February, A. D. 1891, comes W. H. H. Miller, Attorney General of the United States, and with him Charles S.

Varian, attorney for the United States for the Territory of Utah, to prosecute a civil action in which the United States are concerned, and, by leave of the court first had and obtained, files this its
2 amended complaint and informs the court—

That the United States of America hereby brings suit to escheat certain real property in the title herein and hereinafter particularly described and against the defendants above named as trustees, and in this behalf complains, for that—

1st. That on the 19th day of January, A. D. 1855, by an act of the territorial assembly congress of the Territory of Utah the Church of Jesus Christ of Latter-day Saints became an incorporated body for religious and charitable purposes, and from said date continued to be a corporation of the nature and kind above set out up to and until the 3rd day of March, A. D. 1887.

2nd. That on the 1st day of July, A. D. 1862, the Congress of the United States passed an act entitled "An act to punish and prevent the practice of polygamy in the Territories of the United States and other places and disapproving and annulling certain acts of the legislative assembly of the Territory of Utah," which said act, among other things, provided in substance and effect that it should not be lawful for any corporation or association for religious or charitable purposes to acquire or hold real estate in any Territory of the United States during the existence of the territorial government of a greater value than $50,000, and that all real estate acquired or held by any such corporation or association contrary to the provisions of said act should be forfeited and escheated to the United States.

3rd. That on the 3rd day of March, A. D. 1887, the Congress of the United States passed an act entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes,'" and approved March 22nd, 1882, and in and by which said act
3 it was provided, amongst other things, that it should be the duty of the Attorney General of the United States to institute and prosecute proceedings to forfeit and escheat to the United States the property of all corporations obtained or held in violation of the act of July 1st, 1862, above mentioned, and it was, moreover, provided by said act of Congress that the act of the legislative assembly of the Territory of Utah hereinbefore referred to, incorporating the Church of Jesus Christ of Latter-day Saints, should — and it was thereby disapproved and annulled, and that said corporation should be and it was thereby dissolved, and that it should be the duty of the Attorney General of the United States to institute proceedings in the supreme court of the Territory of Utah for the purpose of executing the provisions of said act and to wind up the affairs of said corporation, and for other purposes set out in said act; wherefore the said corporation of the Church of Jesus Christ of Latter-day Saints became and from henceforth was a defunct corporation.

4th. That in pursuance of the act of Congress last aforesaid the Attorney General of the United States did, on the 30th day of July,

A. D. 1887, commence a suit in the name of the United States in the supreme court of the Territory of Utah for the purpose of having the dissolution of said corporation judicially ascertained and declared, the winding up of its affairs, the distribution of its estate according to law, the appointment of a receiver pending the final determination of said suit, and for the purpose of collecting, managing, and preserving all the property of said dissolved corporation.

5th. That on the 7th day of November, A. D. 1887, the supreme court of the Territory of Utah, in the suit above named, ap-
4 pointed a receiver for the purposes aforesaid, and in accordance with the order of said court the said receiver has heretofore taken possession of and now holds, subject to the order of said court, a large amount of property, real and personal, formerly owned and held by said dissolved corporation, and especially the several tracts of real estate hereinafter especially described.

And for that on the 3rd day of March, A. D. 1887, when said corporation became dissolved, as aforesaid, it owned and held, by and through one John Taylor, its trustee, in trust, and by and through certain other persons, upon secret and espress trusts, large tracts and parcels of real estate, exceeding in value $1,000,000, and among other the following-described parcels:

1. All of block 87, in plat "A," Salt Lake City survey, in Salt Lake county, Utah Territory, known as the "Temple block," of the value of $75,000, and

2. Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the northeast ¼ of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5′ east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5′ west 104.5 rods, more or less; thence 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less; thence south 89 degrees and 36′ west 39.5 rods, more or less; thence south 28 degrees and 41′ west 122.5 rods, more or less; thence south 2 degrees and 34′ east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south
5 81 degrees and 5′ west 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58′ west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of said river and following the meanderings thereof *the* the center of a county road, and running east and west; thence east along the center of said county road 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less.

And for that the west half of the real estate above described as the Temple block and all buildings and improvements upon the same, and which said block and buildings were at the date of the disso-

lution of said corporation as aforesaid used exclusively for the worship of God according to the tenets of said Church of Jesus Christ of Latter-day Saints, and which said property had been acquired and held in violation of said act of July 1st, 1862, being in excess of $50,000 in value, was and is exempt from the forfeiture prescribed by said act by virtue of the provisions of said act of Congress of March 3rd, 1887, and the east ½ of said block was and is of great value and largely in excess of $50,000.

And for that in addition to the real estate known as the Temple block, held and used as aforesaid, the said corporation of the Church of Jesus Christ of Latter-day Saints on the 3rd day of March, 1887, when it became and was dissolved as aforesaid, had theretofore and subsequently to the passage of the act of Congress of July 1st, A. D. 1862, acquired and was at the date of its dissolution holding in the name of Francis Armstrong, who held the same
6 upon a trust, the following-described tract of land, situated in the county of Salt Lake, Territory of Utah, to wit:

Beginning in the center of a county road running east and west at a point 10 rods south of and 140 rods west from the N. E. corner of the N. E. ¼ of section 24, township 1 south, of range 1 west, of Salt Lake meridian, thence south 5′ east along the center of a county road, running thence northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5′ west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less: thence south 89 degrees and 36′*m* west 39.5 rods, more or less; thence south 28 degrees and 41′ west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 6′ west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south 81 degrees and 5′ west 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58′ west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of said river and following the meanderings thereof to the center of a county road running east and west; thence east along the center of said county road 366 rods, more or less, to the place of beginning, containing 1,134.3 acres, be the same more or less.

That the above-described parcel of land was and is of the value of $110,000, which is all and entire in excess of the amount of real estate said corporation was by law entitled to hold, and no part of said real estate was held or occupied by said corporation as a building or ground appurtenant thereto for the purposes of the worship of God or of parsonages connected therewith, or as a
7 burial ground.

And the said United States further complains for that on or about the 23rd of October, A. D. 1887, the said Francis Armstrong, without consideration and intending to defeat the operation of the law aforesaid and the just claims of the plaintiff, made a conveyance to one Jesse W. Fox, Jr., of the following-described parcels of land, being a part of the real estate hereinbefore described:

Beginning at the intersection of the west side of a 4-rods street running north and south and the center of Mill cre-k, 15.5 rods west, 81.5 rods south from the N. E. corner of the northeast ¼ of section 26, in township 1 south, of range 1 west, of the Salt Lake meridian, thence south 179 rods, more or less, to the north side of the county road running easterly and westerly; thence, along the north side of said county road, south 81 degrees and 5 minutes west 36.4 rods, more or less; thence, still along the north of said county road, north 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, mor- or less, to the east bank of the River Jordan; thence along the east bank of said river and following the meanderings thereof to the center of Mill creek; thence south 84 degrees and 30 minutes east along the center of said creek 175 rods, more or less, to the place of beginning, containing 223.7 acres, be the same more or less, all in Salt Lake county, Utah Territory, in trust, nevertheless, for an alleged voluntary association known as the Church of Jesus Christ of Latter-day Saints, which voluntary association, in fact, is the successor to the corporation hereinbefore mentioned.

8 And for that *that* said Jesse W. Fox, Jr., at and prior to the taking of the conveyance last aforesaid had notice of all and singular the premises aforesaid, and the said conveyance to him was and is absolutely void.

And the said United States complains further, for that information against the hereinbefore-described property and all claimants thereto was filed in this court on October 8th, 1888, and thereupon a monition issued to the United States marshal of the Territory to seize the property and give due notice to all persons claiming the same or having anything to say why it should not be escheated to the United States to be and appear before the court at a time and place specified, and then and there to make known their claims; that such notice was duly given and the property seized; that the only persons who have appeared in obedience to said monition—although the time for appearance has long since expired—are the defendants Francis Armstrong and Jesse W. Fox, Jr., who have entered and filed their allegations in writing, whereby they make claim to said real property as the trustees for all alleged voluntary religious association- known as the Church of Jesus Christ of Latter-day Saints.

And the said United States upon its information and belief alleges and complains for that the said defendants have no other right, title, or claim to said property or any part thereof except under and by virtue of the conveyances hereinbefore mentioned and as trustees aforesaid.

9 And for that all of said real property as hereinbefore described was acquired by the late corporation of the Church of Jesus Christ of Latter-day Saints subsequently to the 1st day of July, A. D. 1862, and after said corporation had acquired and while it held real property of the value in excess of $50,000, and the same was and is subject to forfeiture or escheat to the United States of America; that the defendants have no legal claim, estate, or title

to said property or any part thereof; that none of said property or its appurtenances is or ever was held or occupied exclusively for the purposes of the worship of God or as a parsonage or as a burial ground.

Wherefore it is prayed that the conveyance herein mentioned be cancelled and the real property hereinbefore and in the title described and the whole thereof be forfeited and escheated to the United States of America, to be disposed of according to law, and that the said United States have judgment against said defendants for their costs.

W. H. H. MILLER,
Attorney General U. S.

CHAS. S. VARIAN,
District Attorney, Associate.

Filed February 12th, 1892.

10 In the First Judicial District Court of the Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATED IN SALT LAKE COUNTY, UTAH Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the N. E. corner of the N. E. ¼ of section 24, township 1 south, of range 1 west, of Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and sout-erly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less; thence south 89 degrees and 36′ west 39.5 rods, more or less; thence south 28 degrees and 41′ west 122.5 rods, more or less; thence south 2 degrees and 34′ east 12.5 feet; thence south 68 degrees and 6′ west 37.9 feet to the north side of a county road; — south 81.5 minutes and 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan, and following the meanderings thereof to the center of a county road running east and west; thence east, along the center of a county road, 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants.

Now comes the said Francis Armstrong and Jesse W. Fox, Jr., and, for their joint and several answer to the complaint filed herein, allege—

That they have no information or belief sufficient to enable them to answer the allegation that on the 3rd day of March, 1887, when said corporation as alleged became dissolved, it owned or held by or through one John Taylor, as trustee in trust, or by or through

certain other persons on secret trust or express trusts large tracts and parcels of real estate, exceeding in value $1,000,000; or

11 That said John Taylor, as trustee in trust, or any one in his behalf or through certain other persons otherwise than by express trusts held the land described in plaintiff's complaint, and on these grounds deny said allegations.

Defendants admit that the west ½ of the real estate described as the "Temple block" and alleges that the east ½ also and all the buildings and improvement- upon the whole of said block were at the date of the alleged dissolution of said corporation used exclusively for the worship of God according to the tenets of said Church of Jesus Christ of Latter-day Saints; but the defendants deny on information and belief that said property or any part thereof was acquired or held in violation of said act of July 1st, 1862.

Defendants further allege on information and belief that the land mentioned as block 87, plat "A," Salt Lake City survey, county of Salt Lake and Territory of Utah, known as the "Temple block," was on the 8th day of October, 1888, by a decree of the supreme court of the Territory of Utah made and entered in the case of The United States of America *vs.* The Church of Jesus Christ of Latter-day Saints and John Taylor, late trustee in trust, and Wilford Woodruff, Lorenza Snow, Erastus Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant, and John W. Taylor, late assistant trustees in trust of said corporation, duly set apart to said Church of Jesus Christ of Latter-day Saints as an unincorporated body or religious sect, to be held, managed, and controlled by William B. Preston, Robert T. Burton, and John R. Winder, trustees, for the benefit of said religious sect or body and for the erection

12 & 13 thereon and use by them of houses of worship for their use and convenience in the lawful exercise of worship according to the tenets of said sect or body, and that said decree remains of record and has never been reversed or modified.

Defendants admit that in addition to the real estate known as the "Temple block" the said corporation of the Church of Jesus Christ of Latter-day Saints on the 3rd day of March, 1887, at the date of the alleged disincorporation, it had theretofor- and subsequently to the act of Congress of July 1st, 1862, acquired and was at the date of its alleged dissolution held in the name of Francis Armstrong, who held the same upon a trust for said church, the following-described tract of land, situated in Salt Lake county, Territory of Utah, to wit:

Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the N. E. corner of the N. E. ¼ of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5′ east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5′ west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less; thence south 89 degrees and

36′ west 39.5 rods, more or less; thence south 28 degrees and 41′ west 122.5 rods, more or less; thence south 2 degrees and 34′ east 12.5 feet; thence south 68 degrees and 6′ west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south 81 degrees and 5′ west 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58′ west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of said river and following the meanderings thereof to the center of a
14 county road running east and west; thence east, along the center of said county road, 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less.

Defendants deny on information and belief that said land was or is entire or otherwise in excess of the amount of real estate said corporation was by law entitled to hold.

Defendants deny that on the 23rd day of October, 1887, or any other date that said Francis Armstrong, without consideration or intending to defeat the operation of the law aforesaid or the just or any claims of the plaintiff, made a conveyance to one Jesse Fox, Jr., of the following-described parcel of land, being a part of the real estate hereinbefore and in said complaint described, to wit:

Beginning at the intersection of the west side of a four-rod street running north and south and the center of Mill creek 15.5 rods west and 81.5 rods south from the northeast corner of the N. E. ¼ of section 26, township 1 south, of range one west, of the Salt Lake meridian, thence south 179 rods, more or less, to the north of a county road running easterly and westerly; thence along the north side of said county road south 81 degrees and 5 minutes west 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58′ west 131.8 rods, more or less, to the east bank of the River Jordan; thence along the said east bank of said river and following the meanderings thereof to the center
15 of Mill creek; thence south 84 degrees and 30′ east along the center of said creek 175 rods, more or less, to the place of beginning, containing 223.7 acres, be the same more or less, all in Salt Lake county, Utah Territory.

Defendants deny that said Jesse Fox, Jr., at or prior to the making of said conveyance had notice of all and singular of the premises aforesaid, as in said complaint alleged; deny on information and belief that said conveyance to him was or is absolutely void or void at all.

Defendants further allege that they have no information or belief sufficient to enable them to answer the allegation that the information against the hereinbefore-described property and all claimants thereto was filed in this court on the 8th day of October, 1888, or that *upon* a monition was issued to the United States marshal of Utah Territory to seize the same and give due notice to all persons claiming the *the* same or having anything to say why it should not be escheated to the United States to be and appear before the court

at the time and place specified and then and there to make known their claims, or that such notice was duly given and the property seized, and on these grounds defendants deny said allegation.

Defendants admit that they appeared in said court and made answer to a certain alleged information filed, as they believe, on behalf of the United States, which said answer was dated November 12th, 1890, by which said answer said defendant- claimed said real estate as trustees for that certain voluntary religious association known as the Church of Jesus Christ of Latter-day Saints, for whom and by virtue thereof they make the same claim.

Defendants have no information or belief sufficient to enable them to answer the allegation that said property was acquired
16 by the late corporation of the Church of Jesus Christ of Latter-day Saints subsequent to the 1st day of July, 1862, after said corporation had acquired and while it held the property of value in excess of $50,000, and on this ground deny the said allegation, and deny on information and belief that the same is or was subject to forfeiture or escheat to the United States of America; deny that said defendants have no legal claim, estate, or title to said property or any part thereof, but, on the contrary, they allege that they have a legal right to said property and the estate therein claimed and hold the same on the trust herein, as set forth in their said answer to the alleged information aforesaid filed in this court on the 12th day of November, 1890.

The defendants, further answering, say that the plaintiff ought not to be permitted to maintain or prosecute this action, because, as defendants allege, all proceedings to forfeit or escheat the said property or any part thereof are barred by section 1047 of the Revised Statutes of the United States, and that said action did not nor did the alleged cause of forfeiture mentioned in the complaint of plaintiff accrue within five years before the commencement of these proceedings and the filing of said complaint or within five years prior to said dissolution of said corporation.

Further answering, these defendants allege that said corporation prior to its dissolution embraced and included all the members of said religious sect or body of religious worshippers known as the Church of Jesus Christ of Latter-day Saints; that from and after said dissolution of said corporation hitherto all the members of said body of religious worshippers have been and now are organized and existing as a voluntary religious association known as the Church of Jesus Christ of Latter-day Saints, and that the members of said voluntary association exceed in number two hundred thou-
17 sand people, and these defendants allege that they are the owners of the property mentioned in said complaint and hereinbefore described, and that they held the legal title thereto as trustees for that said voluntary religious association known as the Church of Jesus Christ of Latter-day Saints in trust for religious and charitable purposes; that said church is and has been ever since the 1st day of March, 1887, a voluntary religious association for charitable and religious purposes and has the right to own and hold such property through trustees to be used for such purposes; that

said defendants were in the possession of said property at the time of the alleged seizure by the United States marshal pursuant to the alleged information and proceedings had hereinabove referred to.

Defendants allege that about the year 1868 the pre-emption and homestead laws of the United States were extended over the Territory of Utah, and that divers persons who had been occupying said premises pre-empted said lands and obtained the legal title thereto about the year 1875; that afterwards and prior to the year 1876 the said pre-emptors, for a valuable consideration, conveyed said premises to the trustees in trust of said church for the use and benefit of said corporation, and from that time until the alleged dissolution of said corporation, on March 3rd, 1887, the same was held in trust for said corporation, and is now held and since that period has been held in trust by said defendants for the use and benefit of said voluntary religious association of the Church of Jesus Christ of Latter-day Saints.

Defendants allege that they are large and valuable improvements on said premises; which said improvements have cost near and are of the value of twenty-five thousand dollars.

Defendants further allege that no part of said property was ever acquired or held in violation of the laws of the United States;
18 that the purchase price of said property and the improvements thereon were paid for by the voluntary donations and contributions to said church from time to time by the members thereof, to be held, managed, and applied by said church, through its officers and trustees chosen and elected by the members thereof, for religious and charitable uses, in which said church and its members were interested, and that said property and the whole thereof ever since the same was acquired as aforesaid and was at all times prior to the time when the same was seized and taken possession of by said alleged receiver, as mentioned in the complaint, held and used by said church, through its officers and trustees, for charitable uses and purpose- and not otherwise, and with the approbation, knowledge, consent, and approval of the members of said church through whose voluntary contributions and donations the same was as aforesaid purchased, acquired, and improved; that at no time was the same or any part thereof used or occupied nor will it be used or occupied to establish, support, or encourage the practice of polygamy or plural marriage or any other unlawful purpose.

Defendants further allege that the doctrine of polygamy, bigamy, or plurality of wives is not or has not been the doctrine or principles of said Church of Jesus Christ of Latter-day Saints since the 6th day of October, 1890, nor has the practice thereof since that time been indulged in, encouraged, or countenanced by any of the authorities or members of said church, but the same, on the date last aforesaid, was permanently abandoned and prohibited by said church.

Wherefore said defendants pray that said plaintiff take nothing by its said action, and that they may hence be dismissed with their costs herein.

19 F. S. RICHARDS,
LE GRAND YOUNG,
DICKSON & STONE,
Attorneys for Defendants.

TERRITORY OF UTAH, } ss:
County of Salt Lake, }

Jesse W. Fox, Jr., being first duly sworn, on his oath does say that he is one of the defendants in the foregoing action; that he has read the foregoing answer, and that the same is true of his own knowledge except the matters and things therein alleged on information and belief, and those he believes to be true.

JESSE W. FOX, JR.

Subscribed and sworn to before me this 2nd day of October, 1891.

JAMES H. MOYLE,
Notary Public.

Filed October 30th, 1891.

20 No. 7504.

In the District Court in and for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE IN SALT LAKE COUNTY, UTAH TERRITORY, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the N. E. corner of the northeast ¼ o*d* section 24, township — south, of range 1 west, of Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5′ west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less; thence south 89 degrees and 36′ west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 24 minutes east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said ro-d south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of river and following the meanderings thereof to the center of a county road running east and west; thence east, along the center of said county road, 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants.

This cause coming on regularly to be heard before the court on the 7th day of November, A. D. 1891, a jury having been in writ-

ing expressly waived and all parties appearing by their respective counsel, evidence was adduced and arguments heard and the cause submitted to the court for its final decision. Now, on this day, the court, being fully advised in the law and the premises, makes the following as its—

Findings of Fact.

1. That during all the time from the 19th day of January, A. D. 1855, to and including the 3rd day of March, A. D. 1887, the Church of Jesus Christ of Latter-day Saints was a corporation for
21 religious and charitable purposes, organized and existing under the laws of the Territory of Utah; that on the 3rd day of March, A. D. 1887, said corporation was dissolved.

2. That all that certain tract and parcel of land now known and designated in the pleadings herein and in the official survey of Salt Lake City as block 87, in plat "A," Salt Lake City survey, commonly known as the Temple block, situated in the city and county of Salt Lake and Territory of Utah, was taken possession of by the agents of said Church of Jesus Christ of Latter-day Saints, then existing as a voluntary religious sect, when Salt Lake City was first laid out and surveyed in 1848, and since said date has been in the possession and held by said church as a voluntary sect until it became incorporated as aforesaid and then as a corporation; that at the time the same was taken possession of as aforesaid it was a part of the public domain and continued to be such until said land was entered by the mayor of said city, along with other lands, on the 21st day of November, 1871, under the town-site act of Congress entitled "An act for the relief of cities and towns upon the public lands," approved March 2nd, 1867; that on the 1st day of June, 1872, the same was conveyed by the mayor of said Salt Lake City to the trustees in trust of said corporation for the sole use and benefit of said church and corporation, in whom the title remained until the act of Congress of March 3rd, 1887, took effect; that on the 2nd day of March, 1867, the said premises were, ever since have been, and now are of a value largely exceeding $50,000; that during all of said period the said corporation was the real owner of and in the actual possession of and held all of said tract of land.

3. That afterwards, to wit, on the 24th day of October, A. D.
22 1874, and while the said church corporation owned, held, and was possessed — the above-mentioned block 87, known as the Temple block, and while the value thereof exceeded $50,000, the said corporation purchased the land and premises particularly described in the pleadings and the title herein for its sole use and benefit, but the legal title thereof was taken by persons in trust for said corporation upon secret trusts, and at the date of the dissolution of said corporation, to wit, March 3rd, 1887, the legal title was in and held by the defendant Francis Armstrong, in trust, however, for the said corporation and its use and benefit; that thereafter, on the 23rd day of October, A. D. 1887, the defendant Francis Armstrong, without consideration, made a conveyance to the defendant Jesse W. Fox, Jr., of a certain part or parcel of said premises; that the said de-

fendant, Jesse W. Fox, Jr., at and prior to the taking of said conveyance, had notice of all and singular the premises and took the title to a portion of the property mentioned in said conveyance and held the same on a secret trust for the unincorporated association, comprised of all the members of the Church of Jesus Christ of Latter-day Saints residing in the Territory of Utah, as the successors to the said corporation; that prior to making the conveyance last aforesaid to the defendant Jesse W. Fox, Jr., to wit, on the 8th day of October, 1888, the supreme court of the Territory of Utah, in a cause then pending before it, to which the late corporation of the Church of Jesus Christ of Latter-day Saints and the defendants herein, Francis Armstrong and Jesse W. Fox, Jr., were parties, and of which cause and the parties thereto the said supreme court then and there had jurisdiction, found, adjudged, and decreed that the real estate herein described was on the 3rd day of March, 1887, the date of the dissolution of the corporation, the property of said late corporation, and was held upon a secret trust for its use and benefit.

4. That these proceedings were commenced on October 9th, 1888, by filing a general information against the property described in the title; that thereupon monition was issued and the
23 property seized by the marshal and notice given to all claimants; that no claimants other than the defendants Armstrong and Fox, Jr., have ever appeared or made claim to the property, and that none of said property was ever held or occupied for parsonages or purposes of the worship of God or for burial grounds.

As Conclusions of Law

The court finds—

That all the real property herein described particularly and known as the Church Farm was acquired and, on the 3rd day of March, 1887, the date of the dissolution, held by the late corporation of the Church of Jesus Christ of Latter-day Saints in violation of the act of Congress approved July 8th, 1862, and is subject to be forfeited and escheated to the United States, as provided by section 13 of an act of Congress entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States in reference to bigamy, and for other purposes,'" and that judgment be entered accordingly.

C. S. ZANE, *Judge.*

December 4th, 1891.

24 No. 7504.

In the District Court in and for the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN SALT LAKE COUNTY, UTAH Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the N. E. ¼ of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5′ west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 6′ west 39.5 rods, more or less; thence south 38 degrees and 41 minutes west 122.5 rods, more or less; thence south 62 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of a county road south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58′ west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of said River Jordan and following the meanderings thereof to the center of a county road running east and west; thence east, along the center of said county road, 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants.

This cause came regularly on to be heard on the 7th day of November, A. D. 1891, before the court sitting without a jury, which was expressly waived in writing by the respective parties; whereupon evidence was adduced and counsel heard and the cause submitted to the court for its final decision. Afterwards, being fully advised in the law and premises, the court delivers its decision and makes its findings of fact and conclusions of law, which were filed, and orders that judgment be entered accordingly.

25 Wherefore, by reason of the law and the findings aforesaid—

It is ordered and adjudged that the defendants Francis Armstrong and Jesse W. Fox, Jr., trustees, have no right, title, interest, or claim of any kind or description in or to any of the premises hereinafter mentioned and described or the possession thereof or any part thereof.

And it is further ordered and adjudged that the following lands and premises, situate in the county of Salt Lake and Territory of Utah, and commonly known as the Church Farm, and the whole thereof, be forfeited and escheated to the plaintiff, The United States

of America, as real property acquired and held on the 3rd day of March, A. D. 1887, by the late corporation, the Church of Jesus Christ of Latter-day Saints, in violation of the laws of the said United States—that is to say:

Certain real estate situate in Salt Lake county, Utah Territory, particularly described as follows, to wit:

Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west of the northeast corner of the northeast ¼ of section 24, township 1 south, of range 1 west, of Salt Lake meridian, thence south 5′ *minutes* east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28 minutes west 88.8 rods, more or less; thence south 6′ west 70.5 rods, more or less; thence south 89 degrees and 36 minutes west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 12.5 rods, more or less; thence south 2 degrees and 24 minutes east 12.5 feet; thence south 68 degrees and 6′ west 37.9 feet to the north side of a county road running easterly and westerly; thence along the
26 north side of said county road south 81.5 minutes 36.4 rods, more or less; thence along the north side of said county road north 89 degrees and 31′ west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of the River Jordan and following the meanderings thereof to the center of a county road running east and west; thence east, along the center of said county road, 366 rods, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134 3) acres, be the same more or less; and

The said premises and lands and the -hole thereof are hereby forfeited and escheated to the said United States of America.

And it is further ordered and adjudged that the plaintiff do have and recover from the defendants Francis Armstrong and Jesse W. Fox, Jr., trustees, the costs of this proceeding herein incurred, taxed at — dollars.

Dated this 4th day of December, A. D. 1891.

C. S. ZANE, *Judge.*

[SEAL OF COURT.]

Attest:

HENRY G. McMILLAN, *Clerk,*
By GEORGE D. LOOMIS, *Deputy.*

December 5th, 1892.

27 In the Third Judicial District Court of the Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN THE COUNTY OF SALT Lake, Territory of Utah, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the N. E. ¼ of section 24, township 1 south, of ranges 1 west, of Salt Lake meridian, thence south 5 minutes east along the center of a country road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28′ west 88.8 rods, more or less; thence south 89 degrees and 36 minutes west 79.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 36 minutes west 37.9 feet to the north side of a county road; — south 81 degrees and 5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, north 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of the said River Jordan and following the meanderings thereof to the center of a county road running east and west; thence east, along the center of said county road, 366 rods, more or less, to the place of beginning, containing 1,134.3 acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants. } No. 7504.

Notice of Appeal.

To the plaintiff and its attorneys, W. H. H. Miller and Charles S. Varian:

Please take notice that the defendants in the above-entitled action hereby appeal to the supreme court of this Territory of Utah from the judgment therein made and entered in said district court on the 4th day of December, 1891, in favor of the plaintiff on said action and against said defendant- and from the whole thereof.

28 To the clerk of said district court.

F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for Defendants.

Filed November 19th, 1892.

29 No. 7504.

Assignment of Errors.

1. The court erred in this, that it was shown by the evidence and is incorporated in the findings of fact made by the court in said case that said action to forfeit and escheat said premises and property is and was barred by section 1047 of the Revised Statutes of the United States, nor was said action begun or the proceedings commenced to forfeit or escheat said premises within five years prior to the time said cause of penalty or forfeiture accrued.

2. The court erred in this, that its said decree is not sustained by the findings of fact for the reasons set forth in the foregoing assignment of errors.

F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for said Defendants.

November 30th, 1892.

30 In the District Court of the Third Judicial District, Territory of Utah.

THE UNITED STATES OF AMERICA, Plaintiff,
vs.
CERTAIN REAL ESTATE SITUATE IN THE COUNTY OF SALT LAKE, Territory of Utah, and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Defendants.

We, the undersigned, attorneys for plaintiff and defendants, hereby certify that the foregoing transcript of record and copies of judgment-roll and notice in the above-entitled case are true and correct, and that an undertaking on appeal in said case in the usual and due form has been filed with the clerk of the above-entitled court on the 17th day of November, 1892.

Dated December 3rd, 1892.

C. S. VARIAN,
Attorney for Plaintiff.
F. S. RICHARDS,
LE GRAND YOUNG,
W. H. DICKSON,
Attorneys for Defendants.

(Church Farm case.)

31 In the Supreme Court of Utah Territory, Regular June Term, 1893.

UNITED STATES OF AMERICA
vs.
CERTAIN REAL ESTATE IN SALT LAKE COUNTY, UTAH TERRITORY, and FRANCIS ARMSTRONG *et al.*, Appellants.

THURSDAY, *June 15th.*

This cause, coming on regularly for hearing, was argued by Messrs. Le Grand Young, W. H. Dickson, and Franklin S. Richards in behalf of appellants and by John A. Marshall, Esq., and Hon. John W. Judd, United States attorney, in reply, was submitted and taken under advisement.

32 In the Supreme Court of Utah, Regular June Term, 1893.

THE UNITED STATES OF AMERICA
vs.
CERTAIN REAL ESTATE IN SALT LAKE COUNTY, etc., and FRANCIS ARMSTRONG *et al.*, Trustees, Appellants. } No. 327.

THURSDAY, *Aug. 31st.*

This cause having been heretofore argued and submitted, and the court being sufficiently advised thereon, it is now here considered, ordered, and adjudged that the judgment of the district court therein be, and the same is hereby, affirmed with costs.

Thereupon counsel for appellants prayed the allowance of an appeal from the judgment of this court this day rendered herein to the Supreme Court of the United States and asked that the amount of a bond to be given thereon and bond for costs be now fixed, and it was ordered that such appeal as prayed for be, and is hereby, allowed, and the amount of a bond to be given thereon and bond for costs is fixed in the sum of five thousand (5,000.00) dollars.

33 In the Supreme Court of Utah.

THE UNITED STATES
vs.
THE CHURCH FARM *et al.*

SMITH, *J.:*

The findings of fact in this case show that the church first acquired an interest in the real estate proceeded against in this action, and which is known as the Church Farm, in the year 1874, and in accordance with the views expressed in the case of The United States *vs.* Tithing Yard the decree of the district court declaring the property escheated to the United States is affirmed.

We concur.

BARTCH, *J.*
MINOR, *J.*

Endorsed: Title court and cause. Opinion. Filed Aug. 31, 1893. Jos. P. Bache, clerk.

34 327.

By the Honorable Charles S. Zane, chief justice of Utah, to the United States of America and to Richard J. Olney, Attorney General; John W. Judd, U. S. attorney for Utah, and John A. Marshall, Esq., its attorneys, Greeting:

Whereas Certain Real Estate situate in Salt Lake County, Utah Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the northeast quarter of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28 minutes west 88.8 rods, more or less; thence south 6 minutes west 70.5 rods, more or less; thence south 89 degrees and 36 minutes west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of the River Jordan and following the meanderings thereof to the center of a county road running east and west; thence along the center of said county road 366 rods east, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., trustees, have lately appealed to the Supreme Court of the United States from a judgment and decree rendered in the supreme court of Utah Territory in favor of you, the said United States of America, and having filed the security required:

You are therefore hereby cited and admonished to be and appear before the Supreme Court of the United States to be holden at the city of Washington, D. C., within sixty (60) days from date of this citation, to do and receive what may pertain to justice to
35 be done in the premises.

Given under my hand, at the city of Salt Lake, in the Territory of Utah, this 3rd day of October, A. D. 1893.

{ Seal Supreme Court, Territory of Utah, United States of America. }

C. S. ZANE,
Chief Justice Utah Territory.

Attest: JOSEPH P. BACHE,
Clerk Supreme Court of Utah.

Due service of a copy of the above citation admitted this 4th day of October, A. D. 1893.

JOHN W. JUDD,
U. S. Attorney, for Respondent.

35½ [Endorsed:] 327. In the supreme court of Utah. The United States *vs.* Certain Real Estate in Salt Lake County * * * known as the Church Farm, etc., *et al.*, appellants. Original citation. Filed in the supreme court Oct. 4, 1893, at Salt Lake City, Utah. Jos. P. Bache, clerk.

36 In the Supreme Court of the United States.

THE UNITED STATES OF AMERICA, Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SALT LAKE COUNTY, UTAH Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the northeast quarter of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and five minutes west 104.5 rods, more or less; thence south 29 degrees and 28 minutes west 88.8 rods, more or less; thence south 6 minutes west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, north 1 degree and 58 minutes west 131.8 rods, more or less, to the east bank of the River Jordan; thence up said east bank of the River Jordan and following the meanderings thereof to the center of a county road running east and west; thence along the center of said county road 366 rods east, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tenths (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Appellants.

Assignment of Errors.

Now comes said land in the caption described, by its attorneys, hereafter named, and Francis Armstrong and Jesse W. Fox, Jr., trustees, and say—

That in the record and proceedings in the above-entitled matter there is manifest error, to wit: That the supreme court
37 of Utah erred in rendering its judgment and decree in affirming the judgment and decree of the district court of

the third judicial district in and for Utah Territory for the reason it is shown by the record and statement of facts made by the court that said Church of Jesus Christ of Latter-day Saints was an organized and existing corporation for religious and charitable purposes during all the time from the 19th day of January, 1855, till and including the 3rd day of March, 1887.

That on the 24th day of October, 1874, it acquired by purchase and held by trustees the lands mentioned in the caption hereof and known as the Church Farm, which said property was so held by said church, through trustees, till March 3rd, 1887, and that no action or suit was begun to forfeit or escheat said property till August 8th, 1888, and when more than five years had elapsed after plaintiff's alleged right of action had accrued, to forfeit or escheat said property; and that the said supreme court of Utah erred in affirming the judgment and decree of the said district court of the third judicial district in and for said Territory for the reason that said action to forfeit and escheat said premises and property is and was barred by virtue of section 1047 of the Revised Statutes of the United States, and for the reason that said action was not begun or proceedings commenced to forfeit or escheat said premises within five years after the time said cause of penalty or forfeiture accrued.

Second. The court erred in holding that the United States of America had a right to forfeit or escheat said premises for
38 the reason that the record shows that the legal title to said premises and property was never at any time held by said corporation.

Wherefore the said appellants pray that the said judgment of the supreme court of Utah Territory be reversed, and that said court be directed to reverse the judgment of the district court of the third judicial district of Utah Territory.

F. S. RICHERDS,
LE GRAND YOUNG,
Attorneys for Appellants.

38½ [Endorsed:] In the Supreme Court of the United States. The United States *vs.* Certain Real Estate * * * known as the Church Farm, &c., *et al.*, appellants. Assignment of errors. Filed in the supreme court Oct. 23, 1893, at Salt Lake City, Utah. Jos. P. Bache, clerk.

39 327.

In the Supreme Court of Utah Territory.

THE UNITED STATES OF AMERICA, Respondent,
vs.
CERTAIN REAL ESTATE SITUATE IN SALT LAKE COUNTY, UTAH Territory, and particularly described as follows, to wit: Beginning in the center of a county road running east and west at a point 10 rods south and 140 rods west from the northeast corner of the northeast quarter of section 24, township 1 south, of range 1 west, of the Salt Lake meridian, thence south 5 minutes east along the center of a county road running northerly and southerly 218.7 rods, more or less; thence south 29 degrees and 5 minutes west 104.5 rods, more or less; thence south 29 degrees and 28 minutes west 88.8 rods, more or less; thence south 6 minutes west 70.5 rods, more or less; thence south 89 degrees and 36 minutes west 39.5 rods, more or less; thence south 28 degrees and 41 minutes west 122.5 rods, more or less; thence south 2 degrees and 34 minutes east 12.5 feet; thence south 68 degrees and 6 minutes west 37.9 feet to the north side of a county road running easterly and westerly; thence along the north side of said county road south 81.5 minutes 36.4 rods, more or less; thence, still along the north side of said county road, 89 degrees and 31 minutes west 177.2 rods, more or less; thence north 1 degree and 58 minutes west 131.8 rods, more or less, to east bank of the River Jordan and following the meanderings thereof to the center of a county road running east and west; thence along the center of said county road 366 rods east, more or less, to the place of beginning, containing eleven hundred and thirty-four and three-tent-s (1,134.3) acres, be the same more or less; and Francis Armstrong and Jesse W. Fox, Jr., Trustees, Appellants.

Undertaking on Appeal.

Know all men by these presents that we, Willard Young and Frank W. Jennings, both of Salt Lake City, Salt Lake county, Utah Territory, are held and firmly bound unto the above-named United States of America in the sum of five thousand dollars, that being the amount fixed by the supreme court of Utah Territory to be paid to the United States of America; for the payment of which, to be well and truly made, we bind ourselves and each of us
40 and our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this 18th day of September, A. D. 1893.

Whereas the above-named Francis Armstrong and Jesse W. Fox, Jr., trustees, and the land aforesaid have prosecuted an appeal to the Supreme Court of the United States to reverse the decree rendered in the above-entitled suit by the supreme court of Utah Territory on the 31st day of August, 1893:

Now, therefore, the condition of this obligation is such that if the above-named Francis Armstrong and Jesse W. Fox, Jr., trustees, and the above-described land shall prosecute said appeal to effect and answer all damages and costs if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and virtue.

WILLARD YOUNG.
FRANK W. JENNINGS.

Sealed, delivered, taken, and acknowledged this 18th day of September, 1893, before me, H. S. Young, notary public, Salt Lake City, Salt Lake county, Utah Territory.

H. S. YOUNG,
Notary Public.

Approved:
C. S. ZANE,
Chief Justice.

Sept. 19, 1893.

41 327.

UNITED STATES OF AMERICA, *Territory of Utah,* } *ss:*

I, Joseph P. Bache, clerk of the supreme court of Utah, in pursuance of an appeal allowed in the case of The United States of America, respondent, *vs.* Certain Real Estate in Salt Lake County, Utah Territory, and Francis Armstrong *et al.*, appellants, lately pending in said court, do return attached hereto a transcript of the record and proceedings, opinion, assignment of errors, supersedeas bond, and bond for costs, together with the original citation, all in and of said court in said cause, to the Supreme Court of the United States, and I hereby certify that said attached transcript of said record and proceedings, opinion, assignment of errors, supersedeas bond, and bond for costs is a full, true, and complete copy of the several originals thereof on file or of record in my office.

Seal Supreme Court, Territory of Utah, United States of America.

In witness whereof I hereunto set my hand and affix the seal of the supreme court of Utah Territory, this 23rd day of October, A. D. 1893, at Salt Lake City, Utah.

JOSEPH P. BACHE,
Clerk Supreme Court of Utah.

Endorsed on cover: Case No. 15,459. Utah Territory supreme court. Term No., 300. Certain Real Estate known as the Church Farm & Francis Armstrong and Jesse W. Fox, Junior, trustees, appellants, *vs.* The United States. Filed December 4, 1893.